

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND LARRY CARRASCO,

Petitioner, No. CIV S-04-2595 MCE KJM P

vs.

SCOTT KERNAN, ORDER

Respondent.

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's August 20, 2008 denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate of appealability must "indicate which specific issue or issues satisfy" the requirement. 28 U.S.C. § 2253(c)(3).

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1 A certificate of appealability should be granted for any issue that petitioner can  
2 demonstrate is ““debatable among jurists of reason,”” could be resolved differently by a different  
3 court, or is ““adequate to deserve encouragement to proceed further.”” Jennings v. Woodford,  
4 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).<sup>1</sup>

5 Petitioner has made a substantial showing of the denial of a constitutional right in the  
6 following issues presented in the instant petition: (1) whether his right to due process was  
7 violated by the admission of evidence of prior “bad acts;” (2) whether his right to due process  
8 was violated by jury instruction error; (3) whether his conviction violates due process because he  
9 was incompetent to stand trial; and (4) whether his right to due process was violated by the trial  
10 court’s failure to make a sua sponte determination whether he was competent to stand trial.

11 Petitioner has also filed an application for an extension of time to request a certificate of  
12 appealability. In light of this order, petitioner’s request for an extension of time will be denied as  
13 unnecessary.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. A certificate of appealability is issued in the present action; and  
16 2. Petitioner’s September 9, 2008 application for an extension of time is denied.

17 Dated: September 25, 2008

  
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19 MORRISON C. ENGLAND, JR.  
20 UNITED STATES DISTRICT JUDGE  
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25       <sup>1</sup> Except for the requirement that appealable issues be specifically identified, the standard  
26 for issuance of a certificate of appealability is the same as the standard that applied to issuance of  
a certificate of probable cause. Jennings, at 1010.